BRUCE E. WATKINS

IBLA 78-287 Decided July 31, 1978

Appeal from decision of New Mexico State Office, Bureau of Land Management, dismissing appellant's protest against the issuance of oil and gas lease NM 31905.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

   An offeror's use of a leasing service's address on a simultaneous noncompetitive oil and gas lease offer drawing entry card does not disqualify the offer.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

   A successful drawee in a simultaneous oil and gas lease drawing will not be disqualified to receive a lease by reason of unsubstantiated allegations to the effect that the winning drawing entry card was filed for such drawee by an agent and that the agent has failed to observe the registration requirements of the Securities Act of 1933.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Bruce E. Watkins has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated January 20, 1978, dismissing his protest against the issuance of an oil and gas lease NM 31905 in connection with a simultaneous drawing held by BLM on October 11, 1977, for parcel No. NM 1065.

Watkins, whose drawing entry card (DEC) was drawn with second priority, protested the award of a lease to the first drawee,

George A. Benway, on the ground that Benway did not give his true address on the DEC and he questioned Benway's actual existence. The address on the card was that of a leasing service, Key Energy Corporation.

The State Office dismissed the protest stating that the regulations do not prohibit the use of the leasing service's address and Watkins did not prove the successful drawee had violated a specific violation.

[1] As for the basis for Watkins' protest to the BLM, the State Office correctly held that the use of a leasing service's address on a simultaneous noncompetitive oil and gas lease offer DEC does not disqualify the offer. There is no regulation barring the use of a common address on a DEC. Virginia L. Jones, 34 IBLA 188, 191 (1978); Nadine Sanford, 31 IBLA 184 (1977). Thus, Benway's offer was not disqualified for this reason and BLM properly dismissed appellant's protest. Appellant's allegations of a "hidden interest," based on the fact of the common address, are not substantiated. Unless the charge of a hidden interest on the part of the leasing service is established there is nothing to support appellant's claim that 43 CFR 3102.7 has been violated.

[2] On appeal Watkins raises a different matter charging that Benway's DEC was illegally filed by a lease broker who has not registered with the Security and Exchange Commission in compliance with the Securities Act of 1933, as amended, to deal in investment contracts in connection with the BLM simultaneous drawing. To support this charge, appellant relies on the case of SEC v. Max Wilson, Inc., et al. (U.S.D.C., New Mexico, Civil Action 77-133-M) (June 15, 1977), wherein the defendants, operators of a "filing service" specializing in the preparation of simultaneously filed oil and gas lease offers for BLM drawings, consented to the entry of a permanent injunction without admitting or denying the allegations set forth in the SEC's complaint. This injunction contained, among other provisions a clause enjoining defendants from violating the registration provisions of the Federal securities laws in connection with BLM's simultaneous oil and gas lease filing system. Appellant has not shown that Key Energy Corporation is under a similar injunction, or substantiated his allegations that the corporation has violated the laws and regulations relating to the registration of securities dealers.

The Board has recently considered and rejected the same argument in the case of John H. McGann, 35 IBLA 32 (1978); Elias C. Bacil, 34 IBLA 322 (1978); and Virginia L. Jones, supra. The Max Wilson case has no significant bearing on the facts presented here. As we stated in McGann:

> Responsibility for enforcing the Securities Act of 1933, supra, is vested with the Securities and

> Exchange Commission which has sought only to move against the aforementioned Max Wilson, Inc., and not against any of its customer/clients who sought to participate in the Federal noncompetitive oil and gas leasing program. We note, in this connection, that the above-described action of the SEC was motivated by the desire of that agency to insure that the customers of the concerned filing service were accorded the full protection guaranteed to them by the securities laws. It would thus be incongruous to punish this protected class of investors for the misdeeds of those who allegedly sought to take illegal advantage of the investing public.
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> Noncompetitive Federal oil and gas leases, when issued, establish contractual relations between the United States and the individual or corporate lessee whose identity is set forth in the offer to lease. No interest in such a lease passes to a "filing service" of the sort described by appellant and, indeed, if it is established that the filing service will participate or share in the interest represented by the lease, this fact may preclude issuance of the lease.

Appellant's protest would more appropriately have been lodged with the agency charged with responsibility for the administration of the Federal statutes relating to the sales of securities, i.e., the Securities and Exchange Commission.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Joseph W. Goss
Administrative Judge